

By: Coleman

H.B. No. 3747

A BILL TO BE ENTITLED

AN ACT

relating to the discharge and court-ordered treatment of certain patients with mental illness.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 574.034(i), Health and Safety Code, is amended to read as follows:

(i) A judge may advise, but may not compel, the proposed patient to:

(1) ~~[receive treatment with psychoactive medication as specified by the outpatient mental health services treatment plan];~~

~~[(2)]~~ participate in counseling; and

(2) ~~[(3)]~~ refrain from the use of alcohol or illicit drugs.

SECTION 2. Section 574.035(j), Health and Safety Code, is amended to read as follows:

(j) A judge may advise, but may not compel, the proposed patient to:

(1) ~~[receive treatment with psychoactive medication as specified by the outpatient mental health services treatment plan];~~

~~[(2)]~~ participate in counseling; and

(2) ~~[(3)]~~ refrain from the use of alcohol or illicit drugs.

1 SECTION 3. Section 574.086, Health and Safety Code, is
2 amended to read as follows:

3 Sec. 574.086. DISCHARGE BEFORE EXPIRATION OF COURT ORDER.

4 (a) Except as otherwise provided by this section, the ~~[The]~~
5 facility administrator of a facility to which a patient was
6 committed for inpatient mental health services or the person
7 responsible for providing outpatient mental health services may
8 discharge the patient at any time before the court order expires if
9 the facility administrator or person determines that the patient no
10 longer meets the criteria for court-ordered mental health services.

11 (b) The facility administrator of a facility to which the
12 patient was committed for inpatient mental health services shall
13 consider before discharging the patient whether the patient should
14 not be discharged but instead should receive outpatient
15 court-ordered mental health services in accordance with~~+~~

16 [~~(1)~~] a furlough under Section 574.082~~+, or~~

17 [~~(2)~~] ~~a modified order under Section 574.061 that~~
18 ~~directs the patient to participate in outpatient mental health~~
19 ~~services].~~

20 (c) A discharge under this section ~~[Subsection (a)]~~
21 terminates the court order, and the person discharged may not be
22 required to submit to involuntary mental health services unless a
23 new court order is entered in accordance with this subtitle.

24 (c-1) If the facility administrator determines that the
25 patient should not be furloughed and that the patient meets the
26 criteria for court-ordered temporary outpatient mental health
27 services under Section 574.034(b), the facility administrator

1 shall file a notice of proposed discharge with the committing court
2 in accordance with Subsection (d).

3 (d) The notice of proposed discharge must include:

4 (1) a detailed description of the reasons for the
5 proposed discharge; and

6 (2) a certificate of mental examination for mental
7 illness that is completed by a physician who examined the patient
8 not later than the seventh day before the date the notice is filed
9 with the court.

10 (e) Not later than the 10th day after the date a notice is
11 filed with the court under Subsection (d), the court may conduct a
12 hearing to review the proposed discharge and determine whether:

13 (1) the patient should be discharged;

14 (2) the patient should remain in the facility under
15 the order for court-ordered inpatient mental health services; or

16 (3) the order for court-ordered inpatient mental
17 health services should be modified to require the patient to
18 participate in outpatient mental health services.

19 (f) If the court schedules a hearing, the court shall:

20 (1) provide notice of the hearing to the facility
21 administrator not later than 72 hours after the notice was filed;
22 and

23 (2) conduct the hearing in the manner prescribed by
24 Section 574.061.

25 (g) If the facility administrator does not receive notice of
26 a scheduled hearing from the committing court not later than 72
27 hours after filing a notice of proposed discharge, the facility

1 administrator may discharge the patient for whom the facility
2 administrator filed the notice.

3 SECTION 4. Section 574.106(a), Health and Safety Code, is
4 amended to read as follows:

5 (a) The court may issue an order authorizing the
6 administration of one or more classes of psychoactive medication to
7 a patient who:

8 (1) is under a court order to receive [~~inpatient~~]
9 mental health services; or

10 (2) is in custody awaiting trial in a criminal
11 proceeding and was ordered to receive inpatient mental health
12 services in the six months preceding a hearing under this section.

13 SECTION 5. Section 574.086, Health and Safety Code, as
14 amended by this Act, applies only to the discharge of a patient
15 receiving court-ordered inpatient or outpatient mental health
16 services that occurs on or after the effective date of this Act.
17 The discharge of a patient receiving court-ordered inpatient or
18 outpatient mental health services that occurred before the
19 effective date of this Act is governed by the law in effect at the
20 time the patient was discharged, and the former law is continued in
21 effect for that purpose.

22 SECTION 6. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2009.